

AGREEMENT

THIS AGREEMENT, made and entered into as of the 11th day of May, 1965, by and between the COUNTY OF BUTTE, hereinafter referred to as "County", and CALIFORNIA WATER SERVICE COMPANY, a California corporation, hereinafter referred to as "Company",

W I T N E S S E T H:

WHEREAS, County has executed a contract with the State of California, Department of Water Resources, hereinafter referred to as "State", whereby County, during a period commencing January 1, 1968 and terminating not earlier than December 31, 2038, will be entitled to receive water from State's Thermalito Power Canal or upstream from State's Thermalito Diversion Dam or from such other point as State may approve; and

WHEREAS, Company is desirous of obtaining from County for use in Company's Oroville District a supply of such water so received by County from State;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, the parties hereto agree as follows:

ARTICLE A. INTRODUCTORY PROVISIONS

1. Definitions - When used in this agreement, the following terms shall have the meanings hereinafter set forth:
 - (a) "State Contract" shall mean the contract dated December 26, 1963, between State and County.

(b) "Each Contractor", or "Other Contractor", shall mean any entity, public or private, contracting with County for a supply of water.

2. Term of Agreement - This agreement shall become effective on the date first above written and shall remain in effect throughout the term of the State Contract and any extension thereof or for a period of seventy-five (75) years, whichever shall be the longer.
3. Successors and Assigns - This agreement and all the terms, covenants, agreements and conditions herein contained shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. In the event Company, with the prior authorization of the Public Utilities Commission of the State of California, shall sell, transfer or convey all or substantially all of Company's Oroville water system to any person or entity, public or private, Company shall have the right to assign to the purchaser thereof all of Company's rights, privileges and obligations hereunder, whereupon all further rights, privileges and obligations of Company hereunder shall forthwith cease and terminate.

ARTICLE B. WATER SERVICE PROVISIONS

1. Water Deliveries - Subject to the availability of water under the State Contract, commencing on the first day of January, 1968 and continuing throughout the term of this agreement, County agrees to deliver to Company during each year of this agreement the amounts of water set forth on Exhibit A, attached hereto and by this

reference made a part hereof. Company shall not be obligated to accept any water delivered hereunder which is of such quality that the constituents therein exceed those specified in the State Contract and which is of such quality that County is not obligated to accept delivery of the same under the terms of the State Contract.

2. Annual Delivery Schedules - On or before September 1 of each year during the term of this agreement, commencing with the year 1967, Company shall submit in writing to County a preliminary water delivery schedule indicating the aggregate amounts of water desired by Company during each month of the succeeding five calendar years and the rate of delivery desired by Company during peak days of said years. Following receipt of such preliminary schedule, County shall submit to State for its approval a master preliminary water delivery schedule which shall combine such schedule of Company with the preliminary water delivery schedule of County, if any, for the same period and such preliminary water delivery schedules for said period as have been submitted to County by Other Contractors. If State shall approve for delivery during each month of the next succeeding year the amount of water shown on such master preliminary schedule for each such month, County shall likewise approve such preliminary schedule of Company. If State shall make any reduction in the amount of water to be delivered during any month of the next succeeding year from the amount shown on such master preliminary schedule applicable to

such month, such reduction shall be shared pro rata by Each Contractor, including County, if applicable, except that such reduction shall be applied first on a pro rata basis against each increment of increase, if any, for such month over Each Contractor's current approved water delivery schedule for such month before any reduction is made in the preliminary schedule for such month of Each Contractor below its approved water delivery schedule for such month. The approved water delivery schedule, determined in accordance with the foregoing provisions of this paragraph 2, shall be transmitted to Company prior to December 15 of the year in which the preliminary water delivery schedule is submitted.

3. Delivery Structure -

- (a) Water delivered to Company pursuant to this agreement shall be delivered by County at the location and through the delivery structure shown on Exhibit B attached hereto and by this reference made a part hereof. Said delivery structure shall be designed and constructed or caused to be designed and constructed by County, and Company shall pay the cost of such delivery structure. Upon thirty (30) days' written notice by County, Company shall deposit with County prior to such construction an amount of money estimated by County to be sufficient to cover such cost to be borne by Company. In the event such estimate proves to be low, Company shall pay to County upon written demand therefor after completion thereof the difference between County's estimate and the actual cost of such construction.

In the event such estimate proves to be high, County shall refund to Company promptly the difference between the actual cost of such construction and the amount of said deposit.

- (b) Title to said delivery structure and to all appurtenances thereto constructed by State shall be in State. Company shall have no obligation or responsibility with respect thereto. However, Company shall pay to County all costs lawfully imposed upon County under the State Contract with respect to said delivery structure. Company shall have no obligation whatsoever to pay all or any portion of the cost of acquiring any real property on which any facility, structure or plant of State or County shall be located. Subject to such prior approval, if any, as may be required by State, Company shall have the right to install, operate, maintain, relocate or replace on property of County or State a pump or pumps and such facilities as may be deemed reasonably necessary by Company to effect proper delivery of water into Company's system from the location shown on Exhibit B hereto; however, Company shall not be obligated to make any payment whatsoever to County or State by reason of such installation, operation, maintenance, relocation or replacement. County agrees that no person other than Company shall receive water service from said delivery structure during the term of this agreement.

4. Measurement of Water Delivered - Company agrees that all water accepted by Company may, for billing purposes, be measured by State, provided that accurate and complete records of such measurements are open for inspection by Company at all times. Company agrees to reimburse County upon demand for the cost of installation by State at said delivery structure of such measuring devices and equipment as are satisfactory and acceptable to State and Company. Company shall not be obligated to pay all or any portion of the cost of operating and maintaining the same, except, in the event State is able to establish the liability of County to pay for the same, then Company shall reimburse County for such costs as County shall have paid or for which County's liability shall have been established. County agrees to vigorously oppose any attempt by State to impose such liability, or any liability under paragraph 3(b) hereof with respect to said delivery structure, on County, including, without limitation, the institution and prosecution, or the defense, as the case may be, of legal proceedings. Should any such proceeding be commenced, County agrees, if so requested by Company, not to oppose Company's active participation in such proceedings.
5. Contested Bills - In the event of any disagreement between Company and County as to the amount of any bill rendered to Company by County, water service shall not be discontinued if the disputed amount thereof is placed on deposit with County. Such deposit shall not preclude review and adjustment of any water bill as set forth in Article C, Section 3 hereof.

ARTICLE C. PAYMENT PROVISIONS

1. County shall charge for the delivery of water to and acceptance thereof by Company from time to time during the term of this agreement an amount calculated at the same rate per acre foot as County shall then currently be obligated to pay State under the State Contract, plus an additional amount not to exceed 25 cents per acre foot for all water delivered to Company. If State shall notify County of any change in the price of water under the State Contract, County shall promptly give written notice thereof to Company. It is agreed that the rates to be charged Company shall not be unreasonable or arbitrary; County further agrees that it will not sell or agree to sell water purchased by County under the State Contract to Other Contractors or to any other person, public or private, purchasing water (a) for municipal, industrial or manufacturing purposes for consumption or use within Company's Oroville service area, as the same now exists or may, from time to time, exist, at a cost to Other Contractors or to any such other person which is less than the cost then currently being charged Company by County, or (b) for resale for municipal, industrial or manufacturing purposes within the County of Butte at a cost to Other Contractors or to any such other person which is less than the cost then currently being charged Company by County. Company shall be obligated to pay for all water which Company is obligated to accept from County in accordance with the appropriate rates set forth from time to time in County's

then applicable rate schedule determined in accordance with the provisions of this paragraph 1.

2. Billings - Billings shall be made by County within fifteen (15) days after receipt by County of each bill from State under the State Contract. Each such bill from County shall specify the quantities of water delivered to Company during the period not covered by preceding bills.
3. Time and Method of Payment - Payments shall be made by Company to County within twenty (20) days after billing by County. In the event that Company in good faith contests the accuracy of any statement submitted to it pursuant to this agreement, it shall give County notice thereof at least five (5) days prior to the day upon which payment of the stated amount is due. To the extent that County finds Company's contentions regarding the statement to be correct, it shall revise the statement accordingly, and Company shall make payment of the revised amounts on or before the due date. To the extent that County does not find Company's contentions to be correct, or where time is not available for a review of such contentions prior to the due date, Company shall make payment of the stated amount on or before the due date and may make the contested part of such payment under protest and seek to recover the amount thereof from County.

ARTICLE D. AVAILABILITY OF WATER

1. County understands that Company intends to use all water delivered to it hereunder for a municipal use and/or for a manufacturing use, as said terms are presently

defined in the State Contract. In any year in which there may occur a water shortage by reason of drought or other temporary cause, County may reduce deliveries of water to Company only in the event deliveries of water to County for a municipal use shall be reduced by State under the State Contract and then only in the same proportion to Company's approved water delivery schedule for the month in which such reduction shall occur as such reduction of deliveries for such use under the State Contract for such month bears to the aggregate amount of water for a municipal use for such month, as shown on County's master approved delivery schedule. County agrees to notify Company in writing promptly in the event of any such reduction in deliveries to Company and concurrently of the amount of such reduction and of any changes in Company's approved delivery schedule.

2. County shall give Company written notice as far in advance as possible of any reduction in deliveries of water which may be necessary because of a shortage in water supply.

ARTICLE E. REMEDIES

By reason of the specialized nature of the water service to be rendered, and for the further reason that the extent of any damage caused to Company by County by reason of any breach of this contract by County may be extremely difficult to determine, it is agreed by the parties

hereto that an action for damages is an inadequate remedy for any breach by County, and that specific performance, without precluding any other remedy available in equity or at law, will be necessary to furnish Company with an adequate remedy for the breach hereof.

ARTICLE F. GENERAL PROVISIONS

1. Amendments - This agreement may be amended at any time by mutual agreement of the parties, except insofar as any proposed amendments are in any way contrary to applicable law.
2. Challenge of Laws - Nothing herein contained shall be construed as stopping or otherwise preventing Company from contesting by litigation or other lawful means the validity, constitutionality, construction, or application of any law of this State or any ordinance, rule, regulation or practice of County.
3. Waiver of Rights - None of the covenants, agreements or conditions herein contained can be waived except by the written consent of the waiving party.
4. Water Used on Excess Lands - The provisions of Article 30 of the State Contract shall be binding upon Company.
5. Notices - All notices or other writings in this contract provided to be given or made or sent, or which may be given or made or sent, by either party hereto to the other, shall be deemed to have been fully given or

made or sent when made in writing and deposited in the United States mail, registered or certified, postage prepaid, and addressed as follows:

To County: Board of Supervisors
County of Butte
Courthouse
Oroville, California

To Company: California Water Service
Company
1720 North First Street
P.O. Box 1150
San Jose, California 95108

The address to which any notice or other writing may be given or made or sent to either party may be changed upon written notice given by such party as above provided.

6. Separability - If any one or more of the covenants or agreements set forth in this contract on the part of County or Company, or either of them, to be performed should be contrary to any provision of law or contrary to the policy of law to such an extent as to be unenforceable in any court of competent jurisdiction, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements and shall in nowise affect the validity of this contract.
7. Paragraph Headings - Paragraph headings in this contract are for convenience only and are not to be construed

as a part of this agreement or in any way limiting or amplifying the provisions hereof.

8. Amendment of State Contract - No amendment, change or modification of the State Contract which requires the County's approval and which affects Company's rights or the delivery of water to Company hereunder shall become effective until approved in writing by Company.

IN WITNESS WHEREOF, the County of Butte has caused this Agreement to be executed by the Chairman of the Board of Supervisors and caused its Official Seal to be hereunto affixed and the California Water Service Company has caused these presents to be executed as of the day and year first hereinabove set forth.

COUNTY OF BUTTE

By

Jessie L. Rogers
Chairman of the
Board of Supervisors

ATTEST:

JESSIE ROGERS
COUNTY CLERK

Clerk of said Board

BY

Margaret

CALIFORNIA WATER SERVICE COMPANY

By

William L. Wade Jr.
Its Vice President

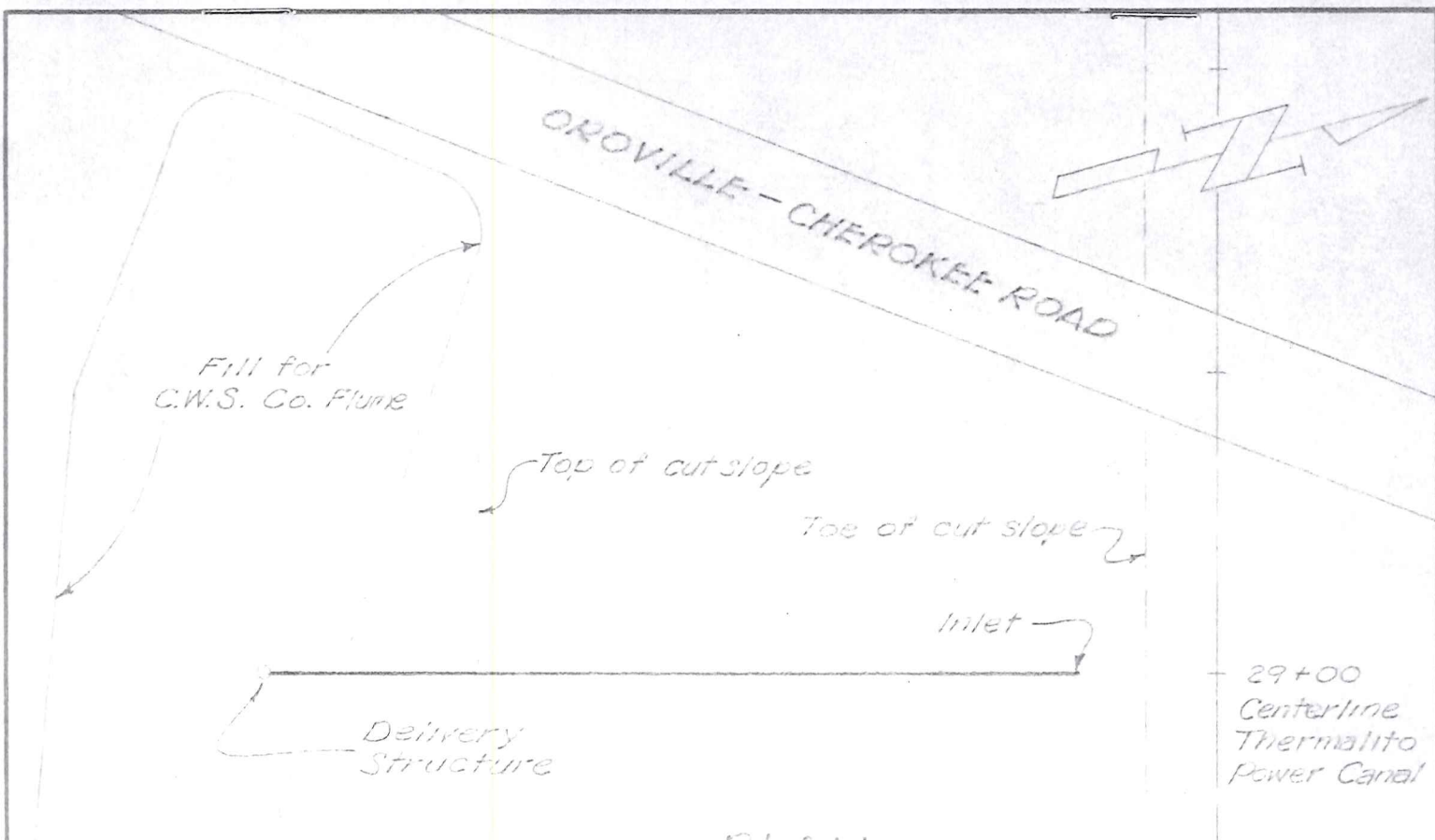
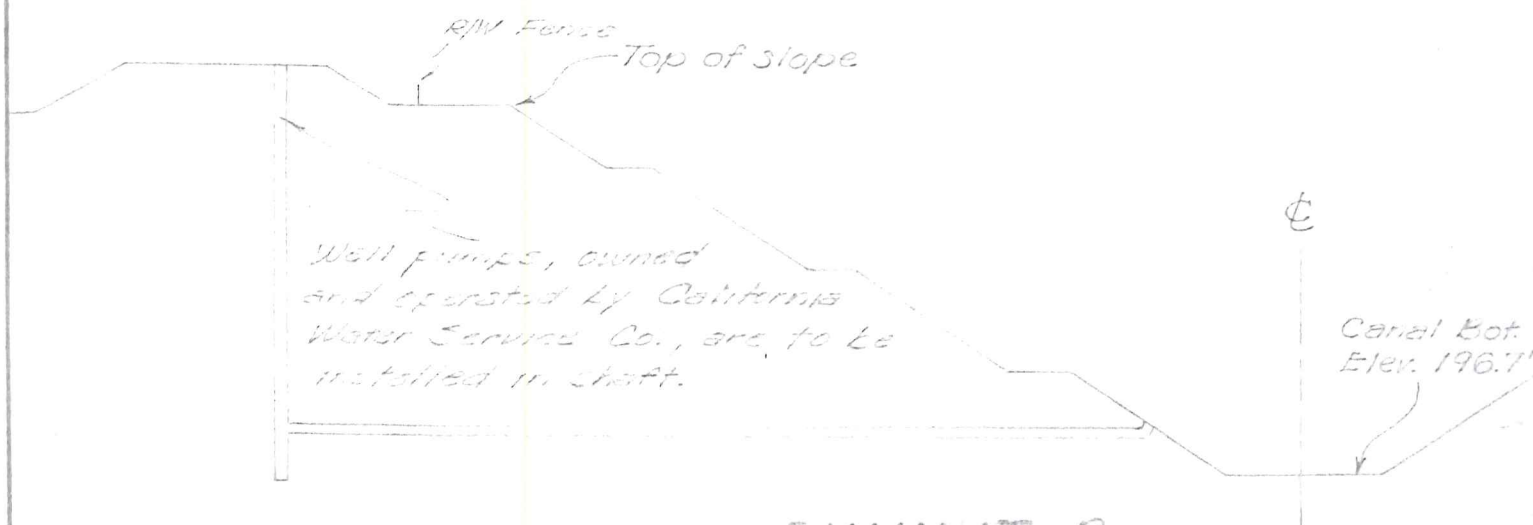
By

C. A. Larrison Jr.
Its ASST. SECT.

Calendar Year**Amount of Water in Acre Feet to be
Delivered to Company**

1968	300
1969	350
1970	400
1971	450
1972	500
1973	600
1974	700
1975	800
1976	900
1977	1,050
1978	1,200
1979	1,350
1980	1,500
1981	1,700
1982	1,900
1983	2,100
1984	2,300
1985	2,500
1986	2,700
1987	2,900
1988	3,100
1989	3,300
1990 and each year thereafter during the term of this agreement	3,500

EXHIBIT A

PLANCROSS SECTION.EXHIBIT B

CALIFORNIA WATER SERVICE CO.		
ENGINEERING DEPARTMENT		DISTRICT
OKOVILLE		
DELIVERY STRUCTURE FOR CALIFORNIA WATER SERVICE CO.		
DRAWN BY JVA	DATE 6-4-64	APPROVED BY G.D. Fyfe
TRACED BY	<i>[Signature]</i>	EST. NO.
CHECKED BY WLS	SCALE 1" = 30'	DWG. NO. ORO 376